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Williams Plant Services, LLC*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

RYAN MCMANUS, ERIC SMITH,
EMILIO LOAISIGA,

Plaintiffs,

vs.

WILLIAMS PLANT SERVICES, LLC,
KEITH BEAM and JOHN DOES 1-5 and 6-
10,

Defendants.

: Hon. _____
: Civ. Action No. _____
:
:

Civil Action

**NOTICE OF REMOVAL & LOCAL CIVIL
RULE 11.2 CERTIFICATION**

**TO: CHIEF JUDGE AND JUDGES OF
THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

ON NOTICE TO:

Drake P. Bearden, Esq.
COSTELLO & MAINS, LLC
18000 Horizon Way, Suite 800
Mount Laurel, New Jersey 08054
Attorneys for Plaintiffs

Michelle M. Smith, Esq., Clerk
Richard J. Hughes Justice Complex
Superior Court Clerk's Office
P.O. Box 971
Trenton, New Jersey 08625

Clerk, Superior Court of New Jersey
Law Division – Camden County
Camden County Hall of Justice
101 S.5th St.
Camden, New Jersey 08103

HONORABLE JUDGES:

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Williams Plant Services, LLC (“Williams” or “Defendant”), by and through its counsel, Ogletree, Deakins, Nash, Smoak & Stewart, P.C., hereby notices the removal of this action from the Superior Court of New Jersey, Camden County, to the United States District Court for the District of New Jersey. In support of this Notice, Williams states as follows:

I. TIMELINESS OF REMOVAL

1. On November 6, 2020, Plaintiffs Ryan McManus, Eric Smith and Emilio Loaisiga (“Plaintiffs”) commenced a civil action against their former employer, Williams, and one of its employees, Keith Beam, in the Superior Court of New Jersey, Camden County, entitled *Ryan McManus, Eric Smith and Emilio Loaisiga v. Williams Plant Services, LLC, Keith Beam and John Does 1-5 and 6-10, Inc.*, Docket No.: CAM-L-003658-20 (the “State Court Action”), in which they allege violations of the New Jersey Conscientious Employee Protection Act (“CEPA”). (*See* Ex. A).

2. Williams received a copy of Plaintiffs’ Complaint on November 16, 2020. (*See* Ex. A.)

3. Accordingly, pursuant to 28 U.S.C. § 1446(b)(2)(B), the Notice of Removal has been timely filed within 30 days after the first notice by the removing Defendant of Plaintiffs’ State Court Action.

II. VENUE

4. The Superior Court of New Jersey, Camden County, is located within the District of New Jersey. 28 U.S.C. § 110. Therefore, venue is proper in this Court because it is the “district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a).

III. BASIS FOR REMOVAL

5. This action is properly removable under 28 U.S.C. § 1441(b) because this Court has original jurisdiction in this case under 28 U.S.C. § 1332(a), which provides, in relevant part, that the district courts shall have original jurisdiction in all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different States.

6. The amount in controversy in this action exceeds the sum or value of \$75,000, exclusive of interest and costs, and the matter in controversy is between citizens of different states. This was true at the time the Complaint was filed and remains true at the time this Notice of Removal was filed.

A. Amount in Controversy

7. Plaintiffs seek to recover damages for retaliation in violation of the New Jersey Conscientious Employee Protection Act (“CEPA”).

8. According to the Complaint, Plaintiffs seek to recover “compensatory damages, including emotional distress and personal hardship, punitive damages, interest, cost of suit, attorneys’ fees, enhanced attorneys’ fees, equitable back pay, equitable front pay,... and any other relief the Court deems equitable and just.” See Ex. A; Curro v. HD Supply, Inc., 2020 WL 3496955, *4 (D.N.J. June 29, 2020) (amount in controversy met by plaintiff simply alleging she was seeking “front pay and back pay, as well as other compensation and benefits, emotional

distress damages, attorneys' fees . . . and punitive damages.").

9. Although Williams denies that it caused Plaintiffs to suffer any damages, based on the allegations of the Complaint, the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

B. Diversity of Citizenship

10. For purposes of diversity jurisdiction, a corporation shall be deemed to be a citizen of every State and foreign state in which it has been incorporated and of the State or foreign state where it has its principal place of business. 28 U.S.C. § 1332(c)(1).

11. For purposes of diversity jurisdiction, a limited liability company has the citizenship of each of its members. Handelsman v. Bedford Village Assoc. Ltd. Partnership, 213 F.3d 48, 51 (2d Cir. 2000); Carden v. Arkoma Assoc., 494 U.S. 185 (1990).

12. Williams is a limited liability company organized under the laws of the State of Georgia. The sole member of Williams is Williams Industrial Services Group, LLC, a limited liability company organized under the laws of the State of Delaware. The sole member of Williams Industrial Services Group, LLC is Williams Industrial Services Group Inc., a publicly traded company which is incorporated under the laws of the State of Delaware with its principal place of business in Georgia. Therefore, Williams is a citizen of the States of Delaware and Georgia. *See* 28 U.S.C. § 1332(c)(1).

13. Contrary to the allegations in the Complaint, Defendant Keith Beam is a citizen of the State of Tennessee. (*See* Ex. A, ¶ 5.)

14. According to the Complaint, Plaintiff Ryan McManus is a citizen of the State of New Jersey. (*See* Ex. A, ¶ 1.)

15. According to the Complaint, Plaintiff Eric Smith is a citizen of the State of

Pennsylvania. (*See* Ex. A, ¶ 2.)

16. According to the Complaint, Plaintiff Emilio Loaisiga is a citizen of the State of New Jersey. (*See* Ex. A, ¶ 3.)

17. Because Plaintiffs and Defendants are citizens of different states, there is complete diversity for purposes of jurisdiction conferred by 28 U.S.C. § 1332(a).

IV. CONSENT OF ALL DEFENDANTS

18. Keith Beam has been named as a direct defendant in this lawsuit, but he has not been properly served, and thus, his consent is not necessary. Nonetheless, Keith Beam does consent to the removal.

19. No other parties have been named as defendants to this lawsuit.

20. Accordingly, consent for removal from any other party is not required.

VI. CONCLUSION

21. Williams has not previously sought similar relief.

22. Williams has not filed a responsive pleading in Plaintiffs' state court action, and no proceedings have transpired in that action.

23. Pursuant to 28 U.S.C. § 1446(d), copies of this Notice of Removal have this day been served by overnight mail and email upon Plaintiffs' counsel, and will be promptly filed with the Clerk of the Superior Court of New Jersey and the Clerk of the Superior Court of Camden County, New Jersey.

24. By removing this matter, Williams does not waive or intend to waive any defenses.

WHEREFORE, Defendant Williams respectfully requests that this Honorable Court take jurisdiction of this action and issue all necessary orders and process to remove said action from the Superior Court of New Jersey, Camden County, to the United States District Court for the

District of New Jersey.

Respectfully submitted,

**OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.**

Attorneys for Defendant

Williams Plant Service, LLC

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Date: December 15, 2020

LOCAL CIVIL RULE 11.2 STATEMENT

Pursuant to Local Rule 11.2, the undersigned counsel, on behalf of Defendant Williams Plant Services, LLC, certifies that the matter in controversy in the above referenced matter is not the subject of any other action pending in any court, or of any pending arbitration or administrative proceeding.

Respectfully submitted,

**OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.**

*Attorneys for Defendant
Williams Plant Service, LLC*

By: s/ Carmen J. DiMaria
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